

FYI -- 1/24/13 EnergyWire: OIL AND GAS: Wyo. senator wants industry to test groundwater in the state before drilling

Sandy Fells to: R8 SLT

01/24/2013 10:14 AM

From: Sandy Fells/R8/USEPA/US

To:

Cc: Ayn Schmit/R8/USEPA/US@EPA, Richard Mylott/R8/USEPA/US@EPA, Monica Morales/R8/USEPA/US@EPA, Pamela Janifer/DC/USEPA/US@EPA

FYI -- From today's EnergyWire . . .

Excerpts: EPA, which is studying whether drilling and fracking fluids contaminated drinking water in the Pavillion area, recently announced it is delaying work on the issue by eight months, angering residents and officials with Encana Corp., the main driller in the area, who want the matter cleared up for good ([E&ENews PM, Jan. 10](#)).

While Robitaille does question the need for groundwater monitoring, he concedes that the existence of monitoring data may have helped Encana and the state avoid the ongoing controversy over groundwater contamination in Pavillion.

OIL AND GAS: Wyo. senator wants industry to test groundwater in the state before drilling

Scott Streater, E&E reporter

Published: Thursday, January 24, 2013

A state senator in Wyoming wants to require the oil and natural gas industry to test groundwater and make the results public before drilling wells, a move the lawmaker says would provide certainty to the industry and the public.

State Sen. Floyd Esquibel, a Democrat from Cheyenne, this week introduced a bill, [Senate File 157](#), which would require initial groundwater sampling before drilling begins, in part because he said he wants to avoid another situation like what is playing out in Pavillion, Wyo., where suspected contamination from drilling operations has raised a firestorm of public concern.

U.S. EPA in a draft report released a year ago said it had found fluid from hydraulic fracturing in groundwater but not in drinking water.

EPA, which is studying whether drilling and fracking fluids contaminated drinking water in the Pavillion area, recently announced it is delaying work on the issue by eight months, angering

residents and officials with Encana Corp., the main driller in the area, who want the matter cleared up for good ([E&ENews PM](#), Jan. 10).

A chief goal of Esquibel's bill is "to provide a scientifically defensible record of the ambient groundwater quality in a defined geographic area prior to the completion of a well," according to the bill.

"What I'm saying is we need energy and we need clean water and clean air, and they are not mutually exclusive," Esquibel said yesterday. "To limit the divisiveness and arguments about whether there's been pollution or no pollution, and questions about the validity of the science, to the extent that we can test prior to drilling that would reduce some of the confusion, some of the doubt."

The bill's prospects for success are unclear. Esquibel is one of four Democrats in the 30-member state Senate. And a similar bill filed last year by Esquibel was defeated 20-10.

What's more, his bill addresses more than groundwater testing, including requirements directed at better monitoring the use of fracking.

Among other things, the bill would allow landowners, state agencies and "Any person who can prove by a preponderance of the evidence a direct effect from the hydraulic fracturing treatment in question" to challenge industry claims that the constituents in fracking fluids constitute proprietary information.

The Petroleum Association of Wyoming opposes the bill, saying there is little evidence that has been presented showing that such groundwater testing is necessary.

But if it is, the trade group wants to see it handled as a new rule adopted by the Wyoming Oil and Gas Conservation Commission rather than a new state law.

"Laws are often quite difficult to amend," said John Robitaille, vice president of the Petroleum Association of Wyoming in Casper.

If tweaks or changes are needed in the law, they would have to wait for the next legislative session and a vote by the Legislature, whereas the state commission could amend rules fairly quickly as needed, he said. "It's better served in a rule capacity if it's necessary, and at this point I can't even agree it's necessary," he said.

Robitaille also said the member companies in the association conduct voluntary groundwater sampling on a case-by-case basis, and that's the way it should remain.

"We look at it as a business decision that should be based on what that particular company feels is best for them at that point in time," he said.

But the proposed legislation comes at a time when the issue of oil and gas drilling and its possible impacts on groundwater used for drinking water has come under public scrutiny.

The Sheridan, Wyo.-based Powder River Basin Resource Council last week released a report outlining steps the state should implement to protect groundwater resources in the face of increased drilling activity. One of the report's recommendations is that the state establish a comprehensive groundwater inventory program "in areas of Wyoming most likely to be attractive to new energy production techniques," such as fracking ([EnergyWire](#), Jan. 15).

"We should invest in analysis, regulation and perhaps infrastructure that will allow the energy industry to take advantage of profitable new production techniques but also minimize conflicts with Wyoming's continued need for careful stewardship of our scarce groundwater," Bob LeResche, one of the report's authors and vice chairman of the Resource Council, said last week.

And it is not unique among Western states.

Colorado this month adopted a new rule that makes it the first to require the oil and natural gas industry to test groundwater quality both before and after drilling ([EnergyWire](#), Jan. 8).

Colorado's groundwater monitoring requirement is a rule adopted by the Colorado Oil and Gas Conservation Commission. The rule was devised by a stakeholders group comprised of industry representatives, local government leaders and environmentalists and avoided going through the state Legislature.

While Robitaille does question the need for groundwater monitoring, he concedes that the existence of monitoring data may have helped Encana and the state avoid the ongoing controversy over groundwater contamination in Pavillion.

"It's difficult to say," he said. "It's sometimes a good idea to lay down a baseline, and when situations like [Pavillion] do arise, you are covered."

Sandy Fells
Regional Congressional Liaison
EPA, Region 8, Denver
303-312-6604